

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION  
HEARING OF OCTOBER 15, 2008**

**REGULAR MEETING**

**9:00 A.M.**

**OCTOBER 15, 2008**

**PRESENT:**

<b>COMMISSIONERS:</b>	<b>Jim Bagley</b>	<b>Larry McCallon</b>
	<b>Bob Colven, Chairman</b>	<b>Brad Mitzelfelt, Alternate</b>
	<b>Kimberly Cox</b>	<b>Richard P. Pearson</b>
	<b>Dennis Hansberger, Vice Chairman</b>	<b>Diane Williams, Alternate</b>

**STAFF:**

**Kathleen Rollings-McDonald, Executive Officer**  
**Clark Alsop, Legal Counsel**  
**Samuel Martinez, Senior LAFCO Analyst**  
**Michael Tuerpe, LAFCO Analyst**  
**Anna Raef, Clerk to the Commission**  
**Rebecca Lowery, Deputy Clerk to the Commission**

**ABSENT:**

**COMMISSIONERS:**

**Paul Biane**  
**James V. Curatalo, Alternate**  
**Mark Nuaimi**

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION – CALL TO ORDER – 9:05 A.M.**

Chairman Colven calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

Chairman Colven requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

**APPROVAL OF MINUTES FOR REGULAR MEETING OF SEPTEMBER 17, 2008**

Chairman Colven calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner McCallon moves approval of the minutes as presented, seconded by Commissioner Pearson. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Hansberger, McCallon, Pearson, Williams. Noes: None. Abstain: Cox. Absent: Biane, Nuaimi (Commissioner Williams voting in his stead).

**CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS**

LAFCO considers the items listed under its consent calendar. The consent calendar consists of:

ITEM 2. Approval of Executive Officer's Expense Report

ITEM 3. Ratify Payments as Reconciled for Month of September 2008 and Note Cash

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Receipts

- ITEM 4. Consideration of: (1) Review of Mitigated Negative Declaration Prepared by the City of Redlands for Zone Change No. 433, Annexation No. 90 and Conditional Use Permit No. 928; (2) Review of Addendum Prepared by LAFCO Environmental Consultant to Address the Acreage Discrepancy, as CEQA Lead Agency for LAFCO 3105; and (3) LAFCO 3105 – Reorganization to Include City of Redlands Annexation No. 90 and Detachments from the San Bernardino County Fire Protection District and its Valley Service Zone, and County Service Area 70 Improvement Zone P-7 (Jacinto)
- ITEM 5. Consideration of: (1) Review of Mitigated Negative Declaration Prepared by the County of San Bernardino for Conditional Use Permit to Establish a Triplex on 1.3 acres as CEQA Responsible Agency for LAFCO SC #338; and (2) LAFCO SC #338 - City of Fontana Irrevocable Agreement to Annex No. 08-01 for Sewer Service
- ITEM 6. Quarterly Financial Report for Period July 1 through September 30, 2008
- ITEM 7. Review and Adoption of Resolutions Reflecting Determinations for Apple Valley Community
- A. Resolution No. 3018 – LAFCO 3013 – Service Review and Sphere of Influence Update for Town of Apple Valley
  - B. Resolution No. 3022 – LAFCO 2998 – Service Review and Sphere of Influence Update for Apple Valley Fire Protection District
  - C. Resolution No. 3026 – LAFCO 3015 – Service Review and Sphere of Influence Update for Thunderbird County Water District
  - D. Resolution No. 3027 – LAFCO 3014 – Service Review and Sphere of Influence Update for County Service Area 17
  - E. Resolution No. 3028 – LAFCO 3005 – Service Review and Sphere of Influence Update for Juniper Riviera County Water District
  - F. Resolution No. 3029 – LAFCO 2997 – Service Review and Sphere of Influence Update for County Service Area 60

A Visa Justification for the Executive Officer's expense report, as well as a staff report outlining the staff recommendation for the reconciled payments, have been prepared and copies of each are on file in the LAFCO office and are made a part of the record by their reference here. LAFCO 3105 has been advertised as required by law through publication in *The Sun* and the *Redlands Daily Facts*, newspapers of general circulation in the area. In addition, individual mailed notice was provided to affected and interested agencies, County departments, those agencies and individuals requesting mailed notice, and landowners and registered voters within and surrounding the LAFCO 3105 area, pursuant to State law and Commission policy.

SC#338 has been advertised as required by law through publication in *Fontana Herald* and *The Sun*, newspapers of general circulation in the area. In addition, individual mailed notice was

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provided to affected and interested agencies, County departments, those agencies and individuals requesting mailed notice, and landowners and registered voters within and surrounding the SC#338 area, pursuant to State law and Commission policy.

Commissioner McCallon moves approval of the consent calendar as presented, seconded by Commissioner Cox. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Pearson, Williams. Noes: None. Abstain: Hansberger (Item 4 only). Absent: Biane, Nuaimi (Commissioner Williams voting in his stead).

**MUNICIPAL SERVICE REVIEW FOR THE SOUTHERN APPLE VALLEY WATER DISTRICTS AND THE FOLLOWING SPHERE OF INFLUENCE UPDATE/ AMENDMENT REVIEWS (CONTINUED FROM SEPTEMBER 17, 2008) – LAFCO 2999 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR APPLE VALLEY HEIGHTS COUNTY WATER DISTRICT; LAFCO 3003-SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR APPLE VALLEY FOOTHILL COUNTY WATER DISTRICT; AND LAFCO 3009-SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR MARIANA RANCHOS COUNTY WATER DISTRICT – APPROVE STAFF RECOMMENDATIONS**

LAFCO conducts a public hearing continued from September 17, 2008, to consider the Apple Valley Community Municipal Service Reviews related to the southern water districts. Notice of the September 17, 2008 hearing was advertised as required by law through publication of a one-eighth page legal advertisement in the *Apple Valley News* and the *Daily Press*, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals and agencies requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald states that at the last hearing consideration of these items was continued to today's date. She says the three water districts were asked to attend today's hearing to discuss their rationale for opposition to the potential consolidation of the districts and to relay information regarding emergency inter-ties or the lack thereof. LAFCO staff sent each of the districts written correspondence requesting their presence and any information they wish to provide. She states that a response was received from the Apple Valley Heights County Water District (CWD) and no other responses were received. She says the president of the Apple Valley Heights CWD is present and wishes to address the Commission. A listing of the free production allowance for the Apple Valley Heights CWD within the Centro Sub-basin of the Mojave adjudication was provided to the Commission. Ms. McDonald states that the agencies have stated that consolidation was, in fact, reviewed in the past with two of the agencies; however, LAFCO staff does not have that material. She states that the staff recommendation is to adopt the statutory exemptions for all three agencies, receive and file the municipal service reviews and approve a single sphere of influence for all three agencies. The sphere of influence excludes the territory served by the Golden State Water Company which extends into the prior Mariana Ranchos CWD sphere.

Larry Hunter, President of Apple Valley Heights CWD, states the rationale is included in the letter. He reads the District's letter and states consolidation would require an expensive booster station and thousands of feet of pipe. He states the agencies could experience cross-contamination and the possibility that other water districts could deplete water in this agency's tanks because the tanks for Apple Valley Heights CWD are at the highest point. He points out that the agencies are operating efficiently and states that he is available to answer questions.

(Commissioner Mitzelfelt arrives at 9:28 a.m.)

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Commissioner Hansberger asks what the elevation change is. The District's General Manager, Robert Fuller, responds that the difference between the District's tanks on Central Avenue and Mariana Ranchos CWD's tanks is 400 feet and the difference to Apple Valley Foothill CWD's tanks would be more. He explains that in order to connect with Foothill CWD, those connections would have to come downhill, over another hill, and under a railroad track about two miles. Commissioner Hansberger states that typically inter-ties are monitored and managed. He adds that the situation in the mountains is significantly more severe in terms of topography and those agencies are inter-tied. He emphasizes that the safety of the public and the safety of its water system is the issue and the agencies should work toward a solution. Mr. Hunter states that these agencies have survived some of the most serious fires in the high desert. He states that a flex line between the agencies could be installed in the case of an emergency. He believes mandating this consolidation would place an undue burden on the constituents of the districts. Commissioner McCallon states that today's recommendation of assigning the same sphere to all three agencies encourages those agencies to develop a plan for consolidation or inter-ties. Mr. Hunter states the District has a disaster plan on file with the Department of Health. Commissioner Hansberger comments that in some cases the agencies have not responded to LAFCO, although it is required. Ms. McDonald states that Apple Valley Heights CWD has always responded to LAFCO's questions and concerns; however LAFCO staff was unaware of the disaster plans.

Ms. McDonald explains that there is nothing in the information showing that Apple Valley Heights CWD would be anticipated to serve Apple Valley Foothill CWD, but that there would be an inter-tie between Apple Valley Heights CWD and Mariana Ranchos CWD, so that issues relating to installation of miles of pipe would not apply. She states that the next service review will be conducted in five years and information regarding plans for disaster preparedness and interties will be required then. She clarifies that LAFCO staff is not recommending initiating consolidation, but recommends that the three agencies review the potential for consolidation and interties. Commissioner Mitzelfelt states the recommendation is reasonable and his experience relating to county service areas, particularly in relation to Phelan Pinon Hills CSD, Zones G and J, and Sheep Creek Mutual Water Company, indicates significant intertie improvements were made in the past five years which have served to help in the event of an emergency. He states Phelan Pinon Hills CSD now has an intertie with Zone J. He points out that drought conditions and problems with pressure in wells and elevation illustrate the importance to be constantly planning improvements. Commissioner Cox states the staff report states that the District is located in the Alto subbasin, but purchased 29 acre feet in Centro and the District transfers portions of this right annually to the Alto basin allocation and carries over the remainder. She states that is infeasible; a transfer cannot be made from Centro to Alto. Ms. McDonald states that her understanding is that the allocation for makeup water is met through the Centro Division. Commissioner Cox states Centro water cannot be transferred to make up for Alto production; it can meet a makeup obligation, however the chart does not show that Apple Valley Heights CWD has had a makeup obligation. LAFCO Analyst Michael Tuerpe states the Watermaster report of April 1, 2008, references that in 2005 the District purchased or transferred 29 acre feet of water rights from the Centro basin from a private individual. She states that the way the mechanism works is that water rights can be purchased in Centro but it can only be applied to the makeup obligation to Centro; it cannot be applied to the Alto production. She states that one cannot assume that the District can purchase Centro water rights and pump that amount in Alto; it is not an augmentation of the District's Alto production rights. It is to make up a separate makeup obligation downstream.

Chairman Colven calls for questions from the Commission. There are none.

Chairman Colven opens the public hearing and calls upon those wishing to speak. There is no one. The public hearing is closed.

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Commissioner McCallon moves approval of the staff recommendation as presented, seconded by Commissioner Mitzelfelt. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Hansberger, McCallon, Mitzelfelt, Pearson, Williams. Noes: None. Abstain: Cox. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Nuaimi (Commissioner Williams voting in his stead).

Mr. Hunter asks for further clarification. Ms. McDonald explains that each of the three water districts will have the same sphere of influence. This does not change the jurisdictional boundaries or initiate consolidation; it is the Commission's policy declaration that the three districts should work together. She explains that the issue regarding interties should be addressed in the Districts' safety plans.

Legal Counsel Clark Alsop clarifies that the motion is for approval of the staff recommendation for LAFCO 2999, LAFCO 3003 and LAFCO 3009.

**MUNICIPAL SERVICE REVIEW FOR THE COMMUNITY OF HESPERIA AND SPHERE OF INFLUENCE UPDATE/AMENDMENT REVIEWS – APPROVE STAFF RECOMMENDATIONS**

LAFCO conducts a public hearing to consider municipal service reviews for the community of Hesperia. Notice of this hearing has been advertised as required by law through publication in the *Daily Press* and *Hesperia Resorter*, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice.

Ms. McDonald states the community of Hesperia is identified as the City of Hesperia, the Hesperia Water District, the Hesperia Fire Protection District, the Hesperia Recreation and Park District, and four improvement zones to CSA 70 which provide service to the existing sphere of influence. She says the City of Hesperia is located in the Victor Valley Region and the staff report provides an extensive history of the community of Hesperia. She says that of importance is that in 1970 LAFCO established a zone of influence for the Hesperia Fire Protection District which began the process of identifying the community of Hesperia. In 1977 when sphere of influence legislation was enacted, the Commission established a coterminous sphere for the Hesperia Water District, Fire District and Park and Recreation District, signaling its intent that this would be the community of Hesperia to be protected and looked upon as a single community of interest. Ms. McDonald shows a map of the community and points out the City of Hesperia and its sphere of influence, CSA 70 Improvement Zone J - the Oak Hills Water System, CSA 70 Improvement Zone R-39 which is a road improvement district that spans the boundary of Phelan Pinon Hills CSD and Oak Hills, CSA 70 Improvement SP-2 (High Country Estates), a sewer collection and transportation entity located in an island area surrounded by the City of Hesperia, and R-41, a road improvement and lighting district located to the east of the I-15 corridor adjacent to existing city boundaries. She explains proposed changes for the community sphere of influence for Hesperia. In the north it includes realignment along Bear Valley Road, a sphere reduction to bring the boundary to the centerline of the road easement, and changes along the Mojave River to bring the sphere of influence to parcel boundaries for access purposes. She states that those parcels that have direct access from the City of Hesperia should be within the Hesperia sphere of influence. She points out those boundaries on the map. There is a portion of the boundary of the City sphere of influence and the community sphere of influence that was within the boundaries of the Crestline Lake Arrowhead Water Agency and cannot be served water by the City of Hesperia, so that must be removed. She states that the Oak Hills community east and west of I-15 is retained by the County and is served by Zone J.

A flyover of the community is provided.

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**SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR CITY OF HESPERIA**

Ms. McDonald refers to the map of the City of Hesperia and its sphere of influence. She points out the Cataba annexation, Las Flores Ranch and Summit Valley. She states the information regarding development applications to the County is identified in the materials provided to the Commission. Those applications are primarily in the Oak Hills community. The staff report includes the number of anticipated units, the largest of which is 216 units. She states that the development proposals that have been approved by the City of Hesperia are not identified on the map, including the Las Flores Ranch development and developments in the Summit Valley Ranch area. She adds that development potential over time is anticipated to add over 76,000 residents to the Hesperia community. Ms. McDonald points out on the map the boundaries of the City, the Hesperia Water District, and CSA 70 Zone J. She states that of particular importance is the Maple Topaz Strip which is the territory that was included in the City of Hesperia at its incorporation but was not detached from CSA 70 Zone J and added to the Hesperia Water District boundary. LAFCO has approved three out-of-agency service contracts over the last year related to tract developments that will receive service from the Hesperia Water District for water and sewer, but are outside the Water District's boundaries. She states that within the Zone J area is the Oak Hills Community Plan which was an obligation of the City and County that encompassed the entirety of the Oak Hills Community. Upon expanding the City sphere of influence, the Commission indicated its position that it would not entertain any annexation until a General Plan amendment for that territory was completed by the City. In 2002 the City of Hesperia adopted the Oak Hills Community Plan, a process that included a community advisory council and the support of City and County staff. She says in 2003 the County adopted the Oak Hills Community Plan through assigning an Oak Hills overlay and including the text, direction and policies of the Oak Hills Community Plan in the Development Code and General Plan; however in 2003 the County did not adopt community plans, so it did not adopt the Oak Hills Community Plan in its entirety. She states that the 2007 General Plan Update, included 13 community plans approved throughout the County and County Planning staff has indicated that it is the County's intent to adopt the Oak Hills General Plan and include it in the General Plan text.

Ms. McDonald states that the City receives one of the lowest shares of property tax revenues in the County, approximately 1.3 percent of the general levy. She states the County has responded by providing a revenue enhancement program. For annexations the County has indicated that it will provide a minimum seven percent share of the general property tax to the City upon annexation; that increased property tax revenue share was applied to the freeway corridor and Cataba annexations and was to be applied to the Summit Valley area through renegotiation which should be finalized at the November 4 City Council meeting. With reference to the Victor Valley Economic Development Authority's (VVEDA) pass-through and the lump sum payment to the City, LAFCO staff questions why all of the revenues were transferred to the City and not apportioned back to the Special Districts that underlie through the subsidiary districts. This question was also reviewed in the dissolutions of the Victorville subsidiary districts. She states that the City of Hesperia staff indicates that they were unaware of the requirement and have never received any information from the Victorville Economic Development Authority regarding the need or distribution of that apportionment. She indicates that if supplied with that information the City would distribute that apportionment; however, to date the City has not received that information. Ms. McDonald states that proposed amendments along the Mojave River have been reviewed and the final issue relates to the Commission's policy related to islands. The materials include information on the five islands that qualify under the Commission's policy declarations. She explains that Islands 1, 2 and 4 were previously initiated by the City but were withdrawn due to objection from the residents and the shift in position by the City Council. Staff asks that the Commission continue its policy direction and that

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in the event the City of Hesperia proposes to annex revenue-generating developments it be required to address its islands prior to completion of such a proposal.

Commissioner Mitzelfelt asks, with regard to revenue enhancements and the seven percent property tax general levy share, if the Rancho Las Flores and Summit Valley projects will go to the City Council. Ms. McDonald responds that both will be considered November 4. She explains that Summit Valley was to be grandfathered but adoption of a resolution renegotiating it was required, and to date that has not taken place.

Commissioner Cox asks if the increased percentage of property tax was an administrative decision on the part of the Board of Supervisors, and if so, does it apply only to Hesperia or to all future annexations in the northern part of the County. Commissioner Mitzelfelt states that the seven percent share was adopted in 2003 and sets a minimum for annexations for cities in the County that are below seven percent. He states that the newer program applies to large undeveloped areas within cities that are below the seven percent. This is a temporary program with a two or three-year window and a 20-year sunset. Ms. McDonald explains that the seven percent enhancement applies to any city annexation where the policy of the County for the transfer of share falls below the seven percent, so that every city is guaranteed a seven percent share in an annexation.

Chairman Colven opens the public hearing and calls upon those wishing to speak.

Scott Priester, Development Services Director for the City of Hesperia, thanked LAFCO staff for providing a wealth of information. He states the City staff has no objection to the proposed changes to the sphere boundaries on Bear Valley Road and along the Mojave River; however, there are improvements along Bear Valley Road that will have to be negotiated with the Town of Apple Valley and City of Victorville. He says the City has no information on why the City's boundary was included in Crestline Lake Arrowhead Water Agency and has no objection to that change. However, these are not positions taken by the City Council and these are to be presented at its November 4 City Council Meeting. Mr. Priester states he will report back to LAFCO staff and will report to the Commission at its November hearing on the Council's position. He states that the City is aware of the island program and the City had begun the annexation of three areas; however, due to the sentiment of the Oak Hills property owners the City Council determined that it was not in the best interest of the community to pursue those annexations. The City's goal is to pursue those annexations before 2014 as it is in the best interests of the City to do so because of service provision issues between the City and County Special Districts with respect to water and sewer. He says that Rancho Las Flores, Summit Valley Ranch and Majestic Hills include 21,000 planned housing units. Most of Majestic Hills will require annexation, so the City intends to address the island issues before that occurs. He states that the City has been working with the County for two years to negotiate and review the parcels that qualify for the revenue enhancement zones.

He states that the City has corresponded with LAFCO staff regarding the VVEDA split and the City is not aware of a way to distribute those funds given to the City through the VVEDA tax increment. There is no direction on how to distribute those funds to the subsidiary districts, but the City would appreciate guidance on how to distribute the funds.

The public hearing is closed.

Commissioner Mitzelfelt asks Ms. McDonald to explain the issue with the VVEDA split. Ms. McDonald states that the tax increment that is received from VVEDA is the City of Hesperia, Hesperia Fire Protection District, Hesperia Water District and Hesperia Park and Recreation District. The increment is developed utilizing the shares from the general tax levy that are sent to VVEDA for

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its use and the pass-through that goes back to the entities by the resolution or bylaws of VVEDA goes back for subsidiary districts to the City. The staff report includes a letter from the City of Victorville which identified that VVEDA does not apportion the shares back to the subsidiary districts and if it is a subsidiary district it sends a lump sum to the City. She says that the Hesperia Fire Protection District has an average 15.3 percent share of the general tax levy, the City of Hesperia has a 1.75 percent share and the Water District has less, so the bulk of the revenues for pass-through are actually attributable to the Hesperia Fire Protection District. She points out that the City has indicated that it has no documentation as to how those revenues were derived. The City would be happy to apportion them back to the subsidiary districts if they knew how they were derived.

Chairman Colven asks if there is resolution to this issue. Ms. McDonald states that VVEDA could provide to the City of Hesperia documentation on how the pass-through was developed. VVEDA's bylaws say that it simply provides a lump-sum payment to the City for subsidiary districts. Commissioner Mitzelfelt states that, as chairman of VVEDA, he will look into the issue.

**LAFCO 3037 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR HESPERIA  
FIRE PROTECTION DISTRICT**

Ms. McDonald states that the sphere of influence for the Hesperia Fire Protection District is the same as that of the City of Hesperia but its boundary is different along the Mojave River. In that area, the sphere of influence is proposed to be aligned with parcel boundaries for clarification of responsibility. She says that those parcels are being included in Hesperia that have access from Hesperia. Ms. McDonald states that the Mojave River centerline has adjusted with every flood that has occurred, so the boundary is an estimation and is shown on tax rolls as the centerline. She states that the unincorporated sphere area is a part of the San Bernardino County Fire Protection District and its North Desert Service Zone. In 2004 the Hesperia Fire Protection District decided to contract with County Fire to provide its level of fire service and that contract has a rolling 10-year period, requiring a one-year notification for cancellation. She points out that in essence the County Fire Protection District is providing service to the entirety of the area utilizing the Fire Protection District's stations within the City of Hesperia and its Oak Hills station. The City provides a single monthly payment for all levels of service including ambulance, and this entity receives the major portion of the property tax share. The options and governmental structure issues identify the dissolution of the fire protection district and the transfer to either the County Fire Protection District or the City as the successor. She says that the dissolution of the Fire Protection District and the County succeeding to that operation would require a sphere expansion and annexation and would also require the consent of the City to be overlaid by a Board-governed fire entity. She states that staff reviewed this issue as it would provide an opportunity for residents of the City to sit on an advisory board that is to be created for the North Desert Service Zone to look at service levels and financing tools. It would transfer responsibility for payment to the County without the obligation of an annual contract and negotiation. However, without the support of the City of Hesperia it cannot move forward. She states that the City, sitting as the Board of Directors of the Fire Protection District, has taken no position on such a change.

Ms. McDonald states that the dissolution of the District with the City succeeding to it would not change the current contract structure, but would change the share of property tax revenues that the City derives from 1.34 percent to in excess of 16 percent, taking it out of the revenue enhancement program and any annexation in the future would not receive that seven percent share. The District's response is that until there is a specific financial study on this option, it would reserve judgment and not support moving forward.



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Ms. McDonald states that consolidation with Apple Valley and Barstow would present political hurdles, so the staff's recommendation is for consolidation, but only with support from the City of Hesperia to the overlay of the San Bernardino County Fire Protection District and its North Desert Service Zone. Absent that support, the recommendation is to maintain the status quo allowing for the City of Hesperia and Hesperia Fire Protection District to maintain a coterminous boundary and move forward with concurrent annexation proposals. She states that the staff's recommendation is to make the sphere changes and affirm the boundary and in this case there is no change anticipated to the services provided under the fire protection function.

Chairman Colven calls for questions from the Commission. There are none.

Chairman Colven opens the public hearing and calls upon those wishing to speak. There is no one. The public hearing is closed.

**LAFCO 3036 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR HESPERIA  
WATER DISTRICT**

Ms. McDonald points out the boundaries of the Hesperia Water District, the City of Hesperia, Zone J and Zone SP-2 on the map. She states that of importance are areas that are within the boundaries of Hesperia Water District but not within the City's boundaries, including the bulk of the Majestic Hills project, and a specific plan known as Bella Mesa. She points out the Zone J territory inside the City of Hesperia and states that retention of Zone J required retention of the parent district, County Service Area 70, overlaying the City's boundaries in that location. She says that information is provided on the history of the agencies. Hesperia Water District was formed in 1975 out of controversy as the Hesperia Mutual Water Company was purchased by the Victor Valley Water District and operated as a separate system outside the Victor Valley Water District. She says that when it proposed to annex that territory into the Victor Valley Water District the residents and the Municipal Advisory Council proposed the formation of an independent water district. The Commission approved both proposals and the voters supported the creation of the Hesperia Water District and the assumption of the obligations for the purchase of the Hesperia Water District. She adds that in 1971 the County formed CSA 70 Improvement Zone J to provide a backbone water system for the rural residential areas along the west side of what is now the I-15 corridor and expansion over time has expanded Zone J to territory east and west of the freeway but it is still anticipated to be a rural residential water system serving water to 2½ acre parcels. She says part of the support to the Oak Hills Community Plan included a plan to annex the freeway corridor and the Cataba area to the City and its water district to receive an urban level of service that Zone J could not provide. The Oak Hills Community Plan anticipates an additional 12,000 residents at build-out within this territory. In 1991 the first annexation to the City of Hesperia required a separation agreement with CSA 70 Zone J to transfer piping responsibilities in that general area. She says that in 2003, when the freeway corridor and Cataba were proposed, the Commission required separation agreements and an amendment to the original 1991 agreement allowing for the transfers of systems but retaining the integrity of the Zone J system and its ability to continue serving its constituents. She states that road powers would be isolated to specific areas not including the existing improvement zones and the Oak Hills Transportation Plan requires funding for major roadway improvements within the Oak Hills area.

Ms. McDonald states that the Commission was provided with information on water protection and water obligations taken from the Mojave Water Agency reports. She notes that the free production allowance for Zone J has been ramped down to 609 acre feet while its current production is in excess of 2,100 acre feet. The agency is required to purchase transfers from other water agencies or private parties to meet that obligation, but over the last few years the replacement water

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obligation has increased. She says that the 2006-07 amount in the staff report is an estimate, and if they are not able to provide or acquire transfers from other water agencies within the Alto basin, that is their replacement water and makeup water obligation. Ms. McDonald explains that since the Commission has no authority over improvement zones, only municipal service review information is provided. She states that of primary importance is a debt obligation that has been acquired by Zone J in the amount of \$2.4 million through the California Infrastructure and Economic Development Bank ("I" Bank). The documents indicate that the County entered into this loan in 2003, officially signing the documents in January 2004. She says that one of the requirements of that loan, in Section 6.02, is that a transfer of more than five percent of the revenues or revenue production cannot take place without the prior written consent of the "I" Bank. In October and November 2004 the Commission transferred the Cataba and freeway corridors and the current estimate from County Special Districts is that that transfer included 231 active and inactive connections within that area, eight percent of the connections of Zone J. She says that during the discussion of the annexation of the freeway corridor and Cataba, LAFCO staff was unaware of the existence of the loan or obligation to maintain the bond-holder's rights and currently staff is unaware of the position of the "I" Bank on the prior transfers. While staff is concerned about prior actions, there is more concern with regard to the future anticipated expansions of the Hesperia Water District. She states that the revenue stream for Zone J must be retained to pay its loan obligations. One of the policy declaration of the Commission has been to not retain CSA 70 inside the boundaries of an incorporated city; therefore, if the Commission maintains that policy it cannot maintain Zone J which is an improvement zone under the parent district of CSA 70. She states that "I" Bank will likely contact LAFCO regarding prior actions taken and the effect on the existing contract.

Commissioner Mitzelfelt states that one option would be to communicate with the "I" Bank regarding amending the loan agreement to change that percentage. He asks what the current status is of the loan. Ms. McDonald states that the loan is for \$2.23 million and one payment has been made. He asks for clarification that if the Commission does nothing, the default position would be that no Zone J service could be attached to the City. Ms. McDonald explains that her understanding is that no existing water connections could be removed from its system. Dissolution of the water district and assumption of responsibility by the City of Hesperia would alleviate some concern because CSA 70 would detach and the City would succeed to agreements that Zone J connections would continue and the City could serve urbanized developments. This, however, would not be an optimum situation because duplicate lines would exist. Ms. McDonald states that the "I" Bank loan requirement is standard. She states that if, in fact, the revenue stream is verified to be sufficient for continuing repayment, the Commission could request and receive written authorization to detach those Zone J areas. More information is needed, however. Commissioner Mitzelfelt asks if the practical effect would be that the Commission would not be able to annex the islands or annexations in the sphere served by Zone J until this is resolved. Ms. McDonald confirms that that would be the case and staff would need policy direction on how to deal with the islands especially. She refers to Zone SP-2, the County's improvement zone for sewer service, which has 235 water and sewer connections and is slightly above eight percent of Zone J's connections. She states that depending on development in other areas, it is possible that the revenue stream would remain stable and the "I" Bank would consent. Commissioner Mitzelfelt states that if a development in Oak Hills would generate 200 to 300 additional connections it would change that percentage and could, at least temporarily, solve that situation. Ms. McDonald states that is correct, but a mechanism is needed to know exactly how much revenue is needed to pay the loan. She says that the "I" Bank was unaware that the annexations had taken place.

Commissioner Cox asks if staff has an understanding of which projects the loan was for and if those projects were completed. Ms. McDonald responds that staff is not certain of the location of the

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improvements, but Zone J, in acquiring the loan, needed to fulfill these improvements in order to meet its minimum daily water requirements.

Commissioner Hansberger asks about the loan amount and total number of active and inactive connections. Ms. McDonald states the amount was \$2.23 million and total connections are 3,192. Commissioner Hansberger states that this allocation would be a small amount over a period of 30 years.

Ms. McDonald refers to Improvement Zone SP-2, which provides sewer service to the High Country Estates. This is one of the islands to be considered and has 235 existing water and sewer connections. Commissioner Hansberger asks what the density of that development is. Ms. McDonald states it is 4 units to the acre. She says this is the only high-density residential development in Oak Hills served by the County, as the balance of properties in Oak Hills are large-lot developments. Ms. McDonald states SP-2 contracts with the Hesperia Water District to utilize its sewer mains to transport effluent to the Victor Valley Wastewater Reclamation Authority (VWRA). She says that contract has existed since the early 1980's. If this is annexed as part of the island program, it would include dissolution of SP-2 and the succession of those services by the Hesperia Water District.

Ms. McDonald states that staff proposes the same sphere of influence changes for this territory as for the community. She presents the water production and water obligation table for the Hesperia Water District. It shows an allocation at ramp-down of 8,100 acre feet; however, its verified production for 2006-07 was just under 20,000 acre feet. She says that it provides for transfers from other agencies, but if it cannot accommodate that, its replacement water and make-up water obligations for 2006-07 would be about \$3.3 million and those costs would have to be absorbed by the rate payers in the Water District. She states that the change along the south would require the exclusion of territory which, even if it had remained within the sphere of influence, could not have been served water in the area since it was within the boundaries of the Crestline Lake Arrowhead Water Agency. The change to exclude this territory will make the boundaries and sphere for the Hesperia community coterminous with that of the Mojave Water Agency and removes any potential problem for the delivery of water outside the state contractor's boundary.

Ms. McDonald states the Hesperia Water District provides for out-of-agency service contracts, most within the Maple to Topaz strip area where water and sewer are necessary, and in the Zone J area for extension of sewer service to a high school site. She states the governmental options include the potential for annexation of the entirety of the sphere of influence to the Hesperia Water District. Such an action would dissolve Zone J and remove the potential problems for the contract; however, it would make this district an independent water district not governed by the City Council. She says that dissolution of the Water District with the City succeeding to its responsibilities would resolve conflicts with Zone J, and would recognize the administration of this agency by the Public Works Department of the City of Hesperia and its billing system administered through the Finance Department of the City. That would necessitate removal of service obligations in areas to the south until such time as the territory was ultimately annexed to the City for the full level and range of municipal services. She states that without the direct consent and support of the City Council as the governing body of the Hesperia Water District, LAFCO staff does not make a recommendation on the options other than to maintain the status quo, that the sphere remain coterminous with that of the City and the concurrent annexation policies of the Commission be adhere to. She adds that detail on services authorized to be provided by the District is listed in the staff report and include water, sanitation, sewer, and park and recreation. She states the park and recreation function relates to the Hesperia Lakes acquisition by the Water District as this territory is owned by the Water District, while the Recreation and Park District operates a community building at that location.

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With regard to solid waste collection, LAFCO staff recommends the removal of this function from the list of active functions for the Water District as it is currently a function of the City of Hesperia which franchises with Burrtec to provide this service. Removal of this will have no direct effect on the operation and the City will continue to provide the franchise and determinations on this service delivery. Ms. McDonald summarizes the staff's recommendation to adjust the spheres of influence with removal of sanitation service from the Water District.

Chairman Colven calls for questions from the Commission.

Commissioner Mitzelfelt asks if the City has expressed an opinion with regard to potential annexation to Hesperia Water District of the Zone J territory. Ms. McDonald states the City opposes the annexation of the entirety of Zone J because it would mean the loss of control and responsibility for the Water District. City staff has indicated that the City does not desire dissolution of the District and without that consent the Commission would assume the obligation for processing of the dissolution. That is not staff's recommendation.

Chairman Colven opens the public hearing and calls upon those wishing to speak. There is no one. The public hearing is closed.

Commissioner Williams moves approval of the staff recommendations for the City of Hesperia, Hesperia Fire Protection District and Hesperia Water District, seconded by Commissioner McCallon. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Mitzelfelt, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Nuaimi (Commissioner Williams voting in his stead).

Ms. McDonald announces that the above service reviews will be continued to the November hearing when the City will report on positions taken by the City Council and Board of Directors. The resolutions will be finalized at that time.

**LAFCO 3010 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR HESPERIA  
RECREATION AND PARK DISTRICT**

Ms. McDonald reports that the Hesperia Recreation and Park District is an independent special district sharing the same sphere of influence for the community. Its boundaries are larger than the City's; however, it does qualify for subsidiary district status as more than 70 percent of the voters and 70 percent of the land area are within the City boundaries. She says that this district's funding source relies upon property taxes and assessments for its services. It receives a share of the one percent general levy and has an Assessment District No. 1 which provides funding for park and recreation set at \$30 per parcel for undeveloped parcels for parks and \$64 per parcel for developed parcels, which includes \$60 for parks and \$4 for street lighting. Its Assessment District No. 2 includes 35 separate assessment districts which address augmented park services, landscape maintenance services and street lighting in direct response to City and County development requirements. She adds that it has indicated that it does not provide service outside its existing boundaries; however, the residents of Phelan Pinon Hills and the unincorporated area of Oak Hills do utilize the services of the parks. She says that it previously received Quimby Act fees from within County developments and there has been some miscommunication on the application of those which must be resolved with County Land Use Services Department. The City does include a development impact fee for park purposes. She says that there is no change anticipated for services authorized this district. In order to maintain its streetlighting power it was required to obtain

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special legislation authority as streetlighting was removed as an active service when Park and Recreation District law was rewritten; however, in the final adoption of that rewrite the continuing responsibility for the Hesperia Park and Recreation District was acknowledged. In the freeway corridor annexation, Improvement Zone R-43 provided for streetlighting and road maintenance and the streetlighting portion of that assessment was transferred to the Park and Recreation District for ongoing services. She states that staff recommends the maintenance of the community sphere of influence for the Park and Recreation District and asks that the Commission make the changes and affirm the balance of the sphere.

Chairman Colven calls for questions from the Commission.

Commissioner Mitzelfelt asks Ms. McDonald to elaborate on the issue relating to Quimby Act Fees. Ms. McDonald states that the District indicates it had been receiving those fees but those payments have stopped. She believes this is an issue of miscommunication with the County Land Use Services Department for the implementation of the fees within the Hesperia Park and Recreation District. The District has indicated that it will contact Land Use Services to resolve this issue.

Chairman Colven states that the staff report indicates that continued population growth in sphere areas places stress on the District's programs from non-residents. He asks if there is any way to generate funding from the non-residents. Ms. McDonald explains that the District can charge a separate fee for non-resident use but the District tries to accommodate everyone who wishes to use its facilities; however, in the future the District may have to charge fees for non-residents. She states that one option would be annexation of the balance of the sphere in order to include assessment districts to help support its services.

Commissioner Mitzelfelt asks Ms. McDonald to review the sphere and boundary of the Park and Recreation District. She points out the boundaries on the map. Commissioner Mitzelfelt asks what the Park and Recreation District could do with regard to providing park facilities or mitigating impacts on its parks from Oak Hills residents and/or development. Ms. McDonald explains that if the area is not annexed it would not qualify for Quimby Act fees for the development of parks. If the entirety of the sphere of influence is annexed the District would qualify for Quimby Act Fees and assessments. Commissioner Mitzelfelt asks if a developer proposes to build a park within the Oak Hills community plan area, but not annexed to Hesperia Park and Recreation District, could something be dedicated to Hesperia Park and Recreation District. Ms. McDonald states that the land could be dedicated but the maintenance would require an out-of-agency service contract. This could be a contract with the property owner as a condition of development. She states that a better option would be to annex the area to the District, which would preclude the subsidiary district status for this district.

Commissioner Hansberger asks what would be required to make it a subsidiary district. Ms. McDonald responds that 70 percent of the land area and 70 percent of the registered voters must be in the District. She explains that the number of voters has never been an issue because the urban core is more densely populated; however, the land area component is usually the problem, but in this case that requirement is barely met.

Commissioner Mitzelfelt asks who would serve the Park and Recreation District if it were outside the area of the Hesperia Water District. Ms. McDonald responds that Zone J would serve.

Commissioner Hansberger asks Ms. McDonald to point out the boundaries of the multiple school districts within the Park and Recreation District. Ms. McDonald points out the boundaries of the Snowline Unified School District and Hesperia Unified School District. Commissioner Hansberger

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comments that wherever possible school district and park district boundaries should be coterminous because it would be more efficient for after-school programs.

Chairman Colven opens the public hearing and calls upon those wishing to speak. There is no one. The public hearing is closed.

**COUNTY SERVICE AREA 70 IMPROVEMENT ZONES R-39 AND R-41**

Ms. McDonald reports on Improvement Zone R-39 and states that R-39 crosses the boundaries for Zone J, the Oak Hills community and the Phelan Pinon Hills CSD community. She states that LAFCO has no jurisdiction over improvement zones but since it provides municipal-type services within the boundaries, staff has provided information on those zones. Improvement Zone R-39 includes 114 parcels and provides road maintenance for 4.5 miles of roads. Only 11 of the 13 roads were dedicated for County-maintained services and of those the County rejected easements for nine of the roads. She says that most of these roads are private and the issue of prescriptive easements for the continued maintenance of these facilities by a public agency needs to be resolved.

Ms. McDonald reports on Improvement Zone R-41 (Quail Summit) and states that when LAFCO staff reviewed the City of Hesperia freeway corridor annexation, Zone R-43 was included as it was not developed at the time and the issue regarding its private roads was resolved through recordation of a prescriptive easement for public purposes. She points out on the map the roads within R-43 which are dedicated and the roads in R-41 are not dedicated. There is no prescriptive easement for road maintenance. She states that R-41 maintains the 1.3 miles of paved road and the street lights in the area. The funding mechanisms have been identified and LAFCO staff makes the recommendation that the County seek to achieve prescriptive easements for road purposes in this area to resolve conflicts or concerns regarding maintenance of the private roads.

Chairman Colven calls for questions from the Commission.

Commissioner Cox comments that the flyover was a very impressive graphic.

Chairman Colven opens the public hearing and calls upon those wishing to speak. There is no one. The public hearing is closed.

Commissioner Hansberger moves approval of the staff recommendation as presented, seconded by Commissioner Cox. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Mitzelfelt, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Nuaimi (Commissioner Williams voting in his stead).

**PENDING LEGISLATION REPORT**

Ms. McDonald reports that SB301 has been signed. This legislation provides financing for cities and the potential for incorporations.

**EXECUTIVE OFFICER'S ORAL REPORT**

Ms. McDonald reports that it was expected that the November hearing would include review of the environmental impact report for LAFCO 3076, but the response to comments received on the draft EIR has taken longer than anticipated so it has been postponed to January. The November agenda

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will include the formation of CSA 120 and the dissolution of two improvements for open space purposes as well as the City of Adelanto service review. She states that there will be no hearing in December. January's agenda will include the EIR for LAFCO 3076.

Ms. McDonald states that her annual evaluation will be considered at the November hearing in closed session.

**THE HEARING IS ADJOURNED AT 11:12 A.M. UNTIL 2:00 P.M.**

**CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION – CALL TO ORDER – 2:00 P.M.**

(It is noted that Commissioner Bagley did not return for the afternoon session.)

Chairman Colven calls the regular session of the Local Agency Formation Commission back to order.

**MUNICIPAL SERVICE REVIEW FOR THE COMMUNITY OF BARSTOW AND THE FOLLOWING SPHERE OF INFLUENCE UPDATE/AMENDMENT REVIEWS – APPROVE STAFF RECOMMENDATIONS**

LAFCO conducts a public hearing to consider municipal service reviews for the community of Barstow. Notice of this hearing has been advertised as required by law through publication in the *Daily Press* and *Desert Dispatch*, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice.

LAFCO Analyst Michael Tuerpe states that the Barstow community is north of the Victor Valley communities and points out the existing sphere of influence for the community of Barstow. To the east of the Barstow community are the communities of Yermo, Daggett and Newberry Springs which are governed by independent Community Services Districts. He points out on the map the location where the Barstow community extends into the Hinkley community and where it extends into the Stoddard Valley Off- Highway Vehicle Park which is managed by the Bureau of Land Management. Mr. Tuerpe points out the communities of Hinkley, Yermo, Daggett, and Newberry Springs, Lenwood, the BNSF Railway yard, Marine Corps annex, the Stoddard Valley Off-Highway Vehicle Park and the community sphere of influence boundary on the flyover map.

Mr. Tuerpe states the City of Barstow sphere of influence was expanded in 1996 to accommodate a potential development project, known at that time as Martinville, now known as Waterman Junction. At that time the City of Barstow requested sphere expansion east of I-15 and the Commission and LAFCO staff expressed concern over the large size of the sphere expansion request. The Commission requested an update one year later on development activity and did not take any further action. The boundaries of the Stoddard Valley Off-Highway Vehicle Park were not set at that time but are now defined by the Bureau of Land Management (BLM). LAFCO staff recommends a sphere reduction for the community of Barstow which includes the City of Barstow, the Odessa Water District and the Barstow Fire Protection District, to exclude the Stoddard Valley Off-Highway Vehicle Park. He says the area has little potential for development including government land controlled by the Bureau of Land Management and private development. Mr. Tuerpe points out that the area proposed for reduction has a County land use designation of Resource Conservation which is one unit per 40 acres. That designation coupled with the public nature of these lands would not require municipal level services within

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the planning horizon.

Commissioner Cox asks if the City of Barstow has expressed an opinion regarding the potential sphere reduction. Mr. Tuerpe states the City does not support LAFCO staff's recommendation based on the fact that approximately one-third of the lands are private, there is potential for development and it is accessible from I-15. In addition, it is close to the potential Waterman Junction project which is west of I-15.

Mr. Tuerpe points out that at the September hearing the community designation for the Town of Apple Valley extended into the Stoddard Valley Off-Highway Vehicle Park. He states that LAFCO staff recommends a reduction of the community of Barstow sphere of influence.

Mr. Tuerpe states that LAFCO staff recommends a sphere of influence expansion to the northwest area to include the remainder of the Hinkley community. He states that the Hinkley community is half within the Barstow sphere of influence and LAFCO staff determined that the entirety of the Hinkley community should be either within or excluded from the Barstow sphere in order to provide efficient service delivery. LAFCO staff's recommendation is to expand the sphere to include the entirety of the Hinkley community.

Commissioner Williams asks if the private parcels receive any services. Mr. Tuerpe states that those lands receive no municipal services except for services from San Bernardino County Fire Protection District and its North Desert Service Zone. LAFCO staff believes, based upon the County land use designation of Resource Conservation, that the potential for receiving municipal-type services within the service review time frame, 2030, is not likely.

Commissioner Mitzelfelt states that there is significant development along I-15 that will occur in and between the Barstow community and the Victorville community. His concern is that, as Barstow grows, military encroachment could occur by the Barstow Marine Logistics Base and Fort Irwin National Training Center. He states that if development is limited to the south he believes it would encourage development to the east which could be incompatible with the military.

Brent Morrow, Community Development Director for the City of Barstow, addresses the Commission and states that the area in question includes about 10 square miles of private land in the Stoddard OHV area. The area has access from I-15, Outlet Center Drive and Route 247. Mr. Morrow states the Suncal project is not totally on hold and the City has had citizens inquire about that project. He said there is a possibility that either side of I-15 could be developed. He does not believe the Bureau of Land Management plans to expand the Stoddard OHV area in the near future considering the current budget climate. He adds that it is his understanding that there are County roads overlying that property which would provide further access. He states that it is the City's desire to maintain this land in its sphere. Commissioner Mitzelfelt asks if the development of the proposed casino north of this area would have any effect on potential uses for private property. Mr. Morrow states that when the EIR review was done for the casinos the City recommended additional access to I-15 with perhaps one or two interchanges between Hodge Road and the Outlet Malls. He states there could be a master planned community of high density including 7,000 acres and to the west smaller communities could be developed with lower density.

Ms. McDonald states most of the lands included in the Waterman Junction project were, in fact, traded out for parcels on the east side of the I-15, as the BLM had an exchange program which allowed it to consolidate its land holdings on the east side of I-15 to create the OHV recreation



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area. Commissioner Colven asks if the exchange is acre-for-acre. Ms. McDonald states it is typically two-to-one in BLM's favor and that the BLM has a program where private lands in the OHV are traded for lands that are between the I-15 and National Trails Highway and BLM properties west of the freeway. Commissioner Mitzelfelt comments that similar exchanges are being made in the El Mirage area. He states that many of the properties abut state highways and he is not sure that they are incompatible with the OHV area because of the potential development in that part of Barstow, including the Suncal community. He says that development on one side and an OHV area on the other side of I-15 does not seem to be compatible. Ms. Cox asks if land exchanges are usually amicable. Ms. McDonald responds that the BLM would contact the private landowners within the area and would negotiate for BLM lands on the other side of the freeway so that BLM traded one acre for two acres on the opposite side. P&V Development, one of the predecessors for Waterman Junction, arranged many of those exchanges to consolidate the land holdings that ultimately are proposed for Waterman Junction. Commissioner Williams asks about the two-acre for one-acre exchange and questions why the BLM would get two acres for one of private land. Ms. McDonald explains that the development potential for the private land is less surrounded by BLM land than it would be if it were closer to a residential area. Commissioner Hansberger asks when the land exchange took place that created the Stoddard Wells OHV Park. Ms. McDonald states it was in the 1980s.

**LAFCO 3016 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR CITY OF BARSTOW**

Mr. Tuerpe reports that the City of Barstow is the social and economic driver for the community. He states that the City of Barstow succeeded to the former Barstow Park and Recreation District whose boundaries are larger than the City boundaries. The City, as a condition, must make available its park services to the residents within those areas at the same City rate. He reports on the Waterman Junction project which would add approximately 25,000 homes or 67,000 people, vastly altering the size and scale of the City of Barstow. The City of Barstow provides full range of services with the exception of Water and Fire. Water service is generally provided by the Golden State Water Company and fire protection is provided by the Barstow Fire Protection District for the City. Fire service is provided by the San Bernardino County Fire Protection District and its North Desert Service Zone for the sphere territories outside the boundaries of the Barstow Fire Protection District. The wastewater reclamation facility operated by the City was given an Order and Notice by the Water Quality Control Board in response to wastewater leaking from its system. He states that the City is planning to upgrade its wastewater reclamation facility to the tertiary level for completion by July 2009. City staff has indicated that this would bring the system in compliance with the Water Quality Control Board requirements.

With regard to the former Park and Recreation District, Mr. Tuerpe states that since the City provides services outside its boundaries, LAFCO staff requests that the City memorialize this service through an out-of-agency service contract through LAFCO.

Mr. Tuerpe states the City in 2007 increased its development impact fees for the first time since 1986, bringing additional revenue to the City; however, in 2008 the City has seen a sharp decrease in development proposals compared to the previous several years. Therefore, the increase in impact fees will probably not be actualized for a few more years. He says that the November ballot includes a measure to consider an increase in sales tax for augmented police and fire services, with 69 percent going to fire and 31 percent to police. Of concern to LAFCO staff is the City's finances related to its operation of park and recreation facilities. The sports park is not part of the park budget but was funded by the redevelopment agency and the overall

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revenues cover one third of its operating expenses, with the balance transferred from the General Fund.

Mr. Tuerpe reviews LAFCO staff's recommendations, including expansion, reduction and affirmation of the remainder of the sphere of influence.

Chairman Colven calls for questions from the Commission. There are none.

Chairman Colven opens the public hearing and calls upon those wishing to speak.

Brent Morrow states that with regard to keeping the private lands and the sphere of influence intact to include the OHV area, in some cases there are up to three square miles of concentration of land. If the sphere was left intact for the potential of annexation, when the decisions are made by the Bureau of Land Management for trade-offs some properties could be squared off. He reiterates that affirming the sphere of influence as is would be the City's preference. Chairman Colven asks Mr. Morrow for his opinion on the Waterman Junction development. Mr. Morrow states that discussion has been held regarding a 200-acre man-made lake with a town center concept including a possible college campus and business parks. He points out that this would be a sustainable community where people could live, work and recreate.

Mr. Tuerpe states the options include keeping the sphere of influence as currently configured, reduce the sphere, expand the sphere to include the Hinkley community, or a combination of the three. Today's recommendation is one expansion, one reduction and the affirmation of the remainder.

Commissioner Williams asks if the private property owners in the proposed reduction area have expressed an opinion. Mr. Tuerpe states they have not. Ms. Williams asks if property owners are noticed. Ms. McDonald states that notice is given in the local newspaper, so local residents would be aware, but landowners outside the local area would not be aware. Because of the size of the review, individual notice was not given. Ms. Williams asks if staff is aware of the number of privately owned parcels within the OHV area. Ms. McDonald states it is approximately 200.

Commissioner Pearson states that the private properties present a challenge as to whether they will stay private. He says the BLM has had a program in effect for many years which cleans up the sections throughout the desert area; however, that has not happened as extensively in San Bernardino County as in Los Angeles County. He suggests that the area to the north might be suitable for retaining in the sphere, but the southern areas could be removed.

Commissioner Cox states that the next opportunity to conduct a review of this nature will be in five years, so perhaps the sphere should be left as-is and within the next five years a better direction may be available as to what the BLM is interested in doing. She states that she would be reluctant to remove the area from the sphere especially considering its connectivity to the interstate. She says that landowners might consider the marketability of their property to be inhibited by not being in a City's sphere, especially considering the close proximity to the interstate. Commissioner McCallon and Commissioner Mitzelfelt agree.

**LAFCO 3031 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR ODESSA WATER DISTRICT**

Mr. Tuerpe reports on the Barstow Community Water agencies and states that the City of

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Barstow is generally served by the Golden State Water Company. In addition, there are two small mutual water companies, Bar-Len and High Desert. He shows the Golden State Water District on the map and states that it does not encompass the entirety of the incorporated area of the City of Barstow. He adds that the Odessa Water District is a subsidiary district of the City of Barstow but does not actively provide water at this time. LAFCO staff posed a concern to Golden State Water Company representatives during the Apple Valley service reviews regarding boundary discrepancies and the agency is aware of the discrepancies and is working to shore them up. Mr. Tuerpe states that the Golden State Water Company is producing less than its free production allowance; however, future demands will reach 11,900 acre feet production around 2015. Current production allowance is 11,500. He says that the single most tangible factor for development is water.

Mr. Tuerpe reports that the City of Barstow, through litigation, instigated the adjudication of the Mojave Basin area in 1990. The following year special legislation was introduced to form the Odessa Water District as a subsidiary district of the City of Barstow. The legislature specifically cited the unique water undersupply problems in the area as the basis for forming the Odessa Water District outside the LAFCO process. The boundaries and sphere are coterminous with the City's boundaries. He states that the District does not perform retail water service, has no facilities and has not provided water in the past. It is only in the event that Golden State Water Company cannot provide retail water that Odessa would become active. Typically a water district that does not serve would not have free production allowance; however, the District does have 240 acre feet of free production allowance which was purchased with a loan from the Barstow Redevelopment Agency. He says that in 2005-2006 it leased its free production allowance to the former Victor Valley Water District in the amount of \$19,200.

Mr. Tuerpe asks the Commission to consider the recommended action on the sphere of influence, and to affirm the District's authorized services and functions.

Chairman Colven calls for questions from the Commission. There are none.

Chairman Colven opens the public hearing and calls upon those wishing to speak. There is no one. The public hearing is closed.

**LAFCO 3032 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR BARSTOW  
FIRE PROTECTION DISTRICT**

Mr. Tuerpe reports that the sphere of influence boundaries are coterminous with that of the City; however, its actual jurisdiction is larger than that of the City. He states that the Barstow Fire Protection District has an ISO rating of 4 within the urban areas and 9 in the rural areas. He states that the District has two operational stations and one non-operational station, and three full-time staff per shift for each of the two stations. That service can be augmented by 20 paid call firefighters. He states that the District has service challenges in that staffing today is lower than it was in 1986; however, the call volume has doubled since that time, creating the potential for a decrease in the quality of service. Correspondence with the District estimates that at approximately 20 percent of the time there are no available full-time resources to achieve the five to ten minute response time. He says that service challenges relate to financial challenges as the District relies heavily on its share of the general levy. It does receive a small share of pass-through from the Barstow Redevelopment Agency but that share is a portion of what it would normally receive. He explains that the District has not received development impact fees from either the City or the County. The City recently approved the second reading of the ordinance establishing impact fees for fire. However, the County Land Use Services Department

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has been requested to include development impact fees as part of the County's development process. He says that given its reliance on the general levy with expenditures increasing at a faster pace than general levy growth, expenditures will outpace revenues in the long run. LAFCO staff considered a recommendation to form a subsidiary district of the City of Barstow; however, although the registered voter requirement of 70 percent is met, the City includes only 66 percent of District land. Subsequent annexations could allow the District to meet the 70 percent requirement and would qualify it to be established as a subsidiary district.

He summarizes the recommendations for the sphere of influence to exclude the Stoddard Valley area, inclusion of the remainder of the Hinkley community and affirmation of the remainder of the District's sphere. LAFCO staff and the District recommend no changes to its currently-authorized functions and services.

Commissioner Mitzelfelt asks if staff's recommendation would be the same whether or not the  $\frac{3}{4}$  cent sales tax increase passes and asks if the increase were not to pass, would staff recommend reorganization. Mr. Tuerpe states that the District is providing adequate service given the amount of revenue it receives. Ms. McDonald states that, because approximately 65 percent of the City is in a redevelopment area, growth would not come to the Fire District, so that unless Waterman Junction were to move forward through annexation, it would only get the existing share of the San Bernardino County Fire Protection District through a detachment process and it would still not be at the same level that it would have received in the past. She says that if the sales tax increase fails, severe impacts to the service delivery could occur and the District and LAFCO and County Fire might have to look at other methods of service. Commissioner Mitzelfelt asks why the Barstow Fire Protection District would take the rest of Hinkley into its sphere if the County overlays that community. Ms. McDonald states the entirety of the sphere is currently in the San Bernardino County Fire Protection District in its North Desert Service Zone. It was expanded to encompass everything that was not in an independent fire provider with the statement from the County that it would not object to the annexation of those sphere territories in the future. So, for the Hinkley community the sphere is a planning tool for the transition of that service.

Commissioner Cox refers to the ISO rating and states that the District's rating is 4 in the urban area and 9 in the rural area. The footnote indicates that Class 1 represents exemplary and Class 10 represents that it does not meet the criteria. She asks if there are any benchmarks as to what is average for cities of this size. Mr. Tuerpe states that a review of the ISO mitigation report states for the urban areas that 3, 4 and 5 are acceptable ratings and for the rural areas every situation is unique. Chief Darrell Jauss, Barstow Fire Protection District, states that ISO takes many factors into consideration, including training, equipment, staffing, and water system. Therefore, anytime there is not adequate water to provide fire protection the ISO rating will be a 9. He says that any rural community without a water system will be rated at 9. He says that the average for Barstow has always been 4 or 5. Commissioner Cox asks if there are any concerns with Barstow Fire in accepting the Hinkley area. Chief Jauss states that for planning purposes it is a good idea and Barstow Fire Protection District has no intent to annex Hinkley anytime soon. With regard to financial concerns, Chief Jauss states that should the sales tax measure not pass, Barstow would not be able to improve current services and would struggle in years to come as costs increase. He asks the Commission to consider the fact that he does not believe that another agency could do a better job of managing the Fire District. Currently Barstow Fire Protection District is serving with 33 percent less funding than County Fire.

Commissioner Mitzelfelt moves approval of the staff recommendation with respect to the City of Barstow, Barstow Recreation and Park District and Barstow Fire Protection District with the

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exception of exclusion of the Stoddard Valley Off-Highway Vehicle Park, inclusion of the community of Hinkley and affirmation of the remainder of sphere and the currently authorized functions and services of the Barstow Fire Protection District and the Odessa Water District, seconded by Commissioner Cox. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Mitzelfelt, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane, Nuaimi (Commissioner Williams voting in his stead).

**LAFCO 3011 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR BARSTOW HEIGHTS COMMUNITY SERVICES DISTRICT**

Mr. Tuerpe presents the map of the Barstow Heights Community Services District and states this area is one of the more densely developed areas of the Barstow Community. The District was formed in 1957 and in the past has provided services including water, roads and park and recreation. He says that today, however, it provides only park and recreation services through two parks with the City of Barstow providing maintenance for the parks. This occurred when the City of Barstow succeeded to the former Barstow Park and Recreation District's contract with the CSD to provide maintenance of the two parks at no cost. He says that contract will expire in 2010 and LAFCO staff has received verbal intent from the CSD to renew the contract and has received verbal confirmation from the park director for the City of Barstow of its intent to continue the contract to provide maintenance for the two parks at no cost. He states that the CSD relies heavily on its share of the general levy and expenditures are comprised of salaries and benefits to its one employee and capital improvements to its parks. Excluding capital improvements, the district operates with excess revenues; however, when capital improvements are made a fluctuation of fund balance occurs. Further, if the District was required to maintain the two parks, it would experience financial challenges.

Governmental options have been outlined and LAFCO staff recommends a zero sphere of influence. LAFCO's concern stems back to 1994 when AB1335 gave LAFCOs authorization to initiate consolidation of special districts. LAFCO staff expresses the same concern at this time and bases its opinion on the fact that if the District were to have to maintain its parks it would experience financial difficulty. The District does not operate with an appropriations limit and LAFCO staff has verified that it is subject to Article 13(b) of the state constitution and staff found no exceptions to that rule for the District. He says that the District's services have devolved over time and it provides the same service that the former Barstow Park and Recreation District provided. LAFCO staff recommends that the Commission assign a zero sphere of influence for the Barstow Heights Community Services District which would signal its desire that the district be dissolved with the City of Barstow as the successor agency, and that the Commission affirm the currently-authorized function and service. Commissioner Cox asks if the City has expressed a desire to annex the area. Mr. Tuerpe states that he attended the Barstow Heights CSD Board meeting and a member of the Barstow Planning Commission also attended. The Planning Commissioner stated that the Planning Commission would like to see the territory annexed to the City; however, the City Council is sensitive to resident opposition. He says indications are that that sentiment has waned over time. Commissioner Cox asks if the District has expressed opposition or support of this proposal. Mr. Tuerpe states that the District provided a letter indicating no comment. Commissioner Cox asks if designating a zero sphere inhibits the District's ability to continue to provide its current functions. Mr. Tuerpe states it does not.

Commissioner McCallon moves approval of the staff recommendation as presented, seconded by Commissioner Williams. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Mitzelfelt, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Nuaimi

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(Commissioner Williams voting in his stead).

**LAFCO 3026 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR CSA SL-1 (LENWOOD PORTION)**

Mr. Tuerpe reports that CSA SL-1 is a street-lighting entity that serves the valley portion of the County; however, there are two areas outside the valley portion of SL-1, one in the mountain area and the other in the Barstow community. He states there are two non-contiguous area, one is the Lenwood portion and the other is a portion of a tract development to the north. The two areas are not part of the sphere of influence of SL-1 as it is far removed from SL-1 proper in the valley portion of the County. He states that the audits and budgets for SL-1 do not break out the activities for the area; however, Special Districts Department as the administrator of the county service area provided a breakdown which indicates that expenditures are over revenues by \$2,700 annually, taking into account operations, maintenance and administrative overhead. He says that if the CSA were to operate as a stand-alone agency it would not be able to support itself. Long-term options would be to include the two areas within the sphere of influence of SL-1 but Special Districts Department staff has indicated it has no plans for future activity in these areas. LAFCO staff agrees with the Department's recommendation that the Commission acknowledge no sphere of influence in this area. Mr. Tuerpe states that if the Commission received an application to annex these areas, processing would include detachment of this portion of SL-1, making the City the successor for street-lighting responsibility upon approval of the annexation.

Mr. Tuerpe concludes that for CSA SL-1 (Lenwood) staff recommends that the Commission acknowledge that there is no sphere of influence and affirming its street-lighting authority.

Commissioner Cox moves approval of the staff recommendation as presented, seconded by Commissioner Mitzelfelt. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Mitzelfelt, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Nuaimi (Commissioner Williams voting in his stead).

**LAFCO 3022 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR CSA 40**

Mr. Tuerpe states this agency provides television translator service, has been in operation since the late 1960s and today provides 10 UHF and 5 VHF channels. The UHF channels are provided by its translator in the Yermo area and VHF channels are provided by its translator in Newberry Springs. He states that County Service Area 40 is not required to convert to digital format because it has a low power signal which are exempt from this phase of the digital conversion. LAFCO staff posed the question to Special Districts staff of the cost of conversion when it does become necessary. The estimate is about \$2,500 per channel for 15 channels. The issue, however, is based upon the fact that there is a need for non-subscriber based television in this area given the economic statistics of the region, cable is not available to the entirety of the District and if it were available it is not affordable to all residents of the District. Mr. Tuerpe states that in 1973 the District was currently configured east of the San Bernardino Meridian, which is generally the Daggett-Yermo-Newberry communities. He says that in 1973 the sphere of influence of CSA 40 was established; however, in 1979 the Commission approved its expansion westerly of the San Bernardino Meridian and encompassed additional communities, the City of Barstow and the Hinkley community. LAFCO staff recommends that the sphere of influence be expanded to encompass the entirety of the remainder of its boundaries which would also include populated areas where its translator signal reaches. He

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states that future annexations by the City of Barstow would follow suit with the CSA 40 sphere expansion. He adds that a long-term option would be consolidation with the other public television agencies within the County as CSAs are not required to have contiguous territory. LAFCO staff believes cost benefits would exist if a single-purpose CSA were to provide television translator services. He says the staff recommendation includes the sphere expansion and affirmation of its currently-authorized functions and services.

Commissioner Mitzelfelt asks if staff is suggesting that a single entity, such as County Service Area 70, include these services. Mr. Tuerpe says there could be cost benefit if there were one single-purpose county service area to provide this service. Commissioner Mitzelfelt asks if staff is recommending that finding today. Mr. Tuerpe states that this is a long-term recommendation; however, it has not been recommended today. Chairman Colven asks if there are plans to update that device. Mr. Tuerpe states that the Special Districts Department indicated that it is an older translator; however, in 2006-07 it was upgraded and is operating efficiently.

Commissioner Hansberger moves approval of the staff recommendation as presented, seconded by Commissioner Mitzelfelt. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Mitzelfelt, Pearson, Williams. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Nuaimi (Commissioner Williams voting in his stead).

**LAFCO 3034 – SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR BARSTOW CEMETERY DISTRICT**

Mr. Tuerpe reports that the boundaries of the Barstow Cemetery District are large and the sphere of influence is smaller than its boundaries, comprising the former City of Barstow sphere boundary. He states that the boundaries extend to the Kern County line on the west and include a vast amount of territory to the south. Barstow Cemetery District's sphere was established 1973 and there has been no activity since that time. LAFCO staff made several attempts by phone and written correspondence including certified mail to obtain a response from District with regard to LAFCO's legislatively-mandated service review and sphere of influence update. He says the District provided no response for a three-year period and finally responded to a phone call just before the staff report was to be published, which resulted in the General Manager providing the Municipal Service Review by mail a few days later. He says the District provided budget and audit information but did not include the completed sphere of influence update document.

The cemetery is located 1.3 miles outside the City of Barstow and is in the sphere of influence of the City. It is operated as Mountain View Memorial Park under a fictitious name change; however that name change expired more than five years ago. It does operate legally for filing and banking purposes as the Barstow Cemetery District. He says the District operates without a master plan. Mr. Tuerpe provides photographs of the cemetery to the Commission on the overhead display. LAFCO staff is unclear on the District's accounting practices in that staff has not been able to discuss with the District how it operates. Changes in practice have occurred; one in 2003-2004 when it operated with four funds and those were consolidated into two funds. In 2006-2007 it reverted to its original operation of four funds. He states that in September 2008 its General Fund and pre-needs sale fund dropped below acceptable levels and operated in the red. The District's bank accounts are maintained in the County Treasury and the County Auditor/Controller-Recorder notified the District that it was operating in the red for two accounts. LAFCO staff verified with the Auditor/Controller that funds were transferred from its endowment fund to its General Fund to make up the difference. Mr. Tuerpe explains that only interest or gains can be removed from an endowment fund. LAFCO staff has not been able to ascertain if principal was transferred. He points out that a trend in the

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endowment fund shows an increase from \$434,000 to \$554,000 in 2003-04, drops over \$120,000 over two years, slowly grows and drops again. He states some of the funds were interest and gains; however, the sharp drop from \$554,000 to \$434,000 is of concern to LAFCO staff. Commissioner Cox states that in 2004-05 the fund shows over \$1,000,000 and in October 2008 it shows \$50,000. She questions where the \$950,000 went. Mr. Tuerpe states the information does not indicate a large capital purchase and nothing substantial has been added.

(It is noted that Commissioner Williams leaves at 3:30 p.m.)

Commissioner Cox states that of equal concern is benefits compared to salaries which is almost 100 percent. She says benefit loading should be 47 percent at maximum.

Mr. Tuerpe states that a public records request was made to the County to request all documents on file. Information from the County included salary and benefit information and County and LAFCO staff expressed concern. Commissioner Cox asks what the response was from the District. Mr. Tuerpe states that the District responded by submitting the District Profile Form and the Municipal Service Review form. He says the total land of the District is 17 acres and 12 are green. LAFCO staff questions why funding was coming from the endowment fund and not one of the other funds.

Commissioner Mitzelfelt asks if it is possible to seek legal remedies to get information, including referral to the Grand Jury, District Attorney, Auditor/Controller-Recorder. Legal Counsel Clark Alsop states that there is statutory requirement for agencies to respond. He says it can be referred to the Grand Jury, District Attorney or a state agency that investigates cemeteries. Commissioner Hansberger suggests visiting the office and requesting information in person. Mr. Tuerpe says he visited the cemetery and the two staff members were busy with customers, and did not acknowledge his presence.

Commissioner McCallon states that it is clear that the financial information shows irregularities. He believes it is incumbent on LAFCO to bring this to the attention of authorities. Ms. McDonald states the law requires this District to file financial documents with the Auditor/Controller-Recorder. The Auditor/Controller-Recorder has continually sent letters and has not received those documents. She states the appropriate action would be to send a copy of the resolution to the Integrity Unit of the District Attorney's Office.

Mr. Tuerpe states that District staff was made aware of today's hearing and that they have a right to request a continuance to the next LAFCO hearing. He says that when LAFCOs received the authority to initiate consolidation of special districts, one of the possibilities was dissolution with the City succeeding to the cemetery function. He explains that current Health and Safety Code does not allow for a City to perform cemetery function on more than five acres; however, this year AB1932 gave the City of Simi Valley exemption to the law that requires that a City cannot operate more than five acres of a cemetery. Therefore, if the City of Barstow was to acquire operation of the cemetery it would require special legislation as the cemetery is 17 acres. Commissioner Cox asks if a county service area could provide that function. Mr. Tuerpe responds that it could.

LAFCO staff recommends that a zero sphere be assigned in addition to affirmation of its current services. Commissioner Hansberger states he wishes to direct staff to explore dissolution or consolidation based upon its failure to respond and concerns about the financial integrity of the District. Mr. Alsop says the impact on LAFCO's budget could be significant.



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Commissioner McCallon suggests that the matter be referred to the District Attorney. Commissioner Hansberger believes the Auditor/Controller-Recorder should make a more thorough investigation before referral to the District Attorney. Ms. McDonald states the Auditor/Controller-Recorder has already investigated what it is able to investigate; however it has not investigated bank accounts outside its control. She says that when LAFCO staff made its public records request it asked for all documents related to this agency available to the County. Those documents included audits, budgets and accounting for accounts on file, noting that the County's records lacked budgets and audits for a number of years.

Commissioner Hansberger moves staff recommendation for a zero sphere of influence and the recommended dissolution of the District take place with the successor being either formation of a County Service Area or seeking special legislation to transfer the District to the City of Barstow, with referral to the County Auditor/Controller-Recorder for further investigation of the District's finances, followed by referral to the District Attorney Integrity Unit if that investigation is insufficient, with additional notification to the Grand Jury of these findings, seconded by Commissioner McCallon.

Commissioner Hansberger asks if the Auditor/Controller-Recorder has the ability to withhold funding if records are not provided. Ms. McDonald states LAFCO staff will research that question.

Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, Hansberger, McCallon, Mitzelfelt, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Nuaimi.

(It is noted that Commissioner Hansberger leaves at 3:55 p.m.)

**COUNTY SERVICE AREA 70 IMPROVEMENT ZONES S-7, W AND R-42**

Mr. Tuerpe states Improvement Zone S-7 is located in the Lenwood area and is a sewer financing entity, Improvement Zone W provides park and recreation service to the Hinkley area, and Improvement Zone R-42 provides road maintenance to a defined area near the Barstow Heights area.

Chairman Colven calls for questions from the Commission. There are none.

**CONSIDERATION OF: (1) MITIGATED NEGATIVE DECLARATION PREPARED BY THE CITY OF BARSTOW FOR RIMROCK ROAD ANNEXATION (GENERAL PLAN AMENDMENT GPA #06-08 AND PRE-ZONING ZC #06-10) (SCH NO. 2007011134); (2) REVIEW OF ADDENDUM PREPARED BY LAFCO ENVIRONMENTAL CONSULTANT TO ADDRESS THE ACREAGE DISCREPANCY, AS CEQA LEAD AGENCY FOR LAFCO 3086; AND (3) LAFCO 3086 - REORGANIZATION TO INCLUDE ANNEXATIONS TO CITY OF BARSTOW, ODESSA WATER DISTRICT AND BARSTOW FIRE PROTECTION DISTRICT AND DETACHMENT FROM THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT AND ITS NORTH DESERT SERVICE ZONE (07-02-RIMROCK ROAD)**

LAFCO conducts a public hearing to consider LAFCO 3086 - Reorganization to Include Annexations to City of Barstow, Odessa Water District and Barstow Fire Protection District and Detachment from the San Bernardino County Fire Protection District and its North Desert Service Zone (07-02-Rimrock Road). Notice of the hearing was advertised as required by law through publication in the *Desert Dispatch*, a newspaper of general circulation in the area,

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pursuant to State law and Commission policy. Individual notice of this hearing was provided to affected and interested agencies and to landowners and registered voters within and surrounding the reorganization area, County departments and those individuals and agencies requesting mailed notice.

(Commissioner Mitzelfelt states he has a disqualifying conflict on this item and leaves the hearing at 4:00 p.m.)

Senior LAFCO Analyst Sam Martinez reports that LAFCO 3086 is a proposal to annex territory to the City of Barstow, the independent Barstow Fire Protection District and detachment from the San Bernardino County Fire Protection District and its North Desert Service Zone. He states that this reorganization is a straightforward boundary change and provides for a logical boundary for the City squaring off the City's southern edge. The area includes 645 acres bounded on three sides by the City. With regard to land use, the City rezoned the area to DL (Desert Living), RS-6 (Single Family Residential), RM-2 (Multi-Family Residential), CG (General Commercial). He says these zoning designations will remain in effect for a minimum period of two years following the annexation unless specific findings are made by the City Council at a noticed public hearing. He states that the area is primarily vacant except for an existing Southern California Edison facility on the northwest corner of the area. He states that the City prepared a plan for service for itself and the Odessa Water District, and the Barstow Fire Protection District also submitted a plan for service. Those plans for service indicate that extension of the services would maintain and/or exceed current service levels provided through the County. He says that environmental review included an initial study and mitigated negative declaration prepared by the City. The City's documents indicate that total acreage for the reorganization area is 640 acres; however, this section is 645 acres, so the Commission's environmental consultant, Tom Dodson & Associates, prepared an addendum to the City's environmental assessment addressing the acreage discrepancy and providing an environmental assessment for the entire reorganization area. He states that the additional acreage will not have any impacts to the environment beyond what the City has identified in its environmental assessment. Therefore, preparation of a new negative declaration will not be required. LAFCO staff supports approval of LAFCO 3086 by taking the actions listed on the staff report.

Chairman Colven calls for questions from the Commission. There are none.

Chairman Colven opens the public hearing and calls upon those wishing to speak. There is no one. The public hearing is closed.

Commissioner Pearson moves approval of the staff recommendation as presented, seconded by Commissioner McCallon. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, McCallon, Pearson. Noes: None. Abstain: Mitzelfelt. Absent: Biane, Nuaimi.

(It is noted that Commissioner Mitzelfelt returns at 4:07 p.m.)

**DISCUSSION OF ISSUES RELATED TO CALAFCO BOARD STRUCTURE AND  
IMPLEMENTATION OF SB 375**

Ms. McDonald reports that she and Chairman Colven attended a meeting of the Southern California LAFCOs to discuss issues related to the future representation on this agency and positions taken on legislation. The Commission was provided with a draft paper which provides a discussion on the CALAFCO Board's effective representation of all LAFCOs in California. She

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states that the representation is predominantly limited to Northern and Central California as there are seven LAFCOs in Southern California and the voting power is diluted over a span of 58 counties. She says that there is also reluctance to run for the CALAFCO Board from Southern California LAFCOs. She states that this position has come to the fore because of positions taken by CALAFCO over SB375. CALAFCO Board President Peter Hertzog from Orange County has resigned because of this issue. At the meeting there was consensus to approach the CALAFCO Board at its November 7 meeting to request that it review its policies on the nomination, representation and legislative committee membership processes on its Board of Directors. She states that she and George Spiliotis, Executive Officer of Riverside LAFCO, were appointed to present this position to the CALAFCO Board. The position paper puts forth recommendations including appointment of an ad hoc committee to consider the possibility for changes in the nomination process to provide equal representation from all the areas in the state. She says that from her own perspective, an important issue is that the CALAFCO Board appoints members to the Legislative Committee. She is one of the staff members proposed to participate on the Legislative Committee next year, but the CALAFCO Board members are predominantly from Northern California with Sacramento LAFCO having two Board members on the Legislative Committee and no members from Southern California. The only Board members remaining on the Board from Southern California are Kathy Long from Ventura and Jerry Gladbach from Los Angeles. She explains that if the nomination process is changed, it would be incumbent upon the seven southern counties to nominate commissioners to run for those positions.

Legal Counsel Clark Alsop states that Los Angeles LAFCO Commissioner Jerry Gladbach brought up some of these concerns at the annual Board meeting following the annual conference. He states that no decisions were made but the Board was receptive to discussion.

Commissioner McCallon states the same sorts of issues come up in the League of California Cities and he is on that Board of Directors. There are 480 cities and 52 board members in that organization. He states that one of the reasons the League has 10 at-large positions is to try to achieve a geographic balance to assure that all areas are represented. He says the League faces the same legislative issue and the League takes no legislative position if there is division on the Board. He suggests the same for CALAFCO.

Commissioner McCallon asks what the benefit is of being a member of CALAFCO. Ms. McDonald states it depends upon the County, but for San Bernardino it is the legislative process. San Bernardino LAFCO also partakes in its education classes; however, those classes are available to non-members. She explains that the legislative information conveyed is most important.

Mr. Alsop states that he has represented CALAFCO since 1982 and in earlier years the Board was selected by a recruitment committee which was tasked with finding people to run who represent all geographic areas. That process was abandoned in favor of a nominating committee.

Commissioner Mitzelfelt suggests that every LAFCO appoint a delegate to CALAFCO. He believes that would provide better representation and asks if the 15 Board members are appointed by region.

Ms. McDonald states there is a fomenting of concern among Southern California LAFCOs, some more adamantly than others. She believes that Riverside and San Bernardino are concerned about the representation issue but there is a value in maintaining a unified

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CALAFCO presence. She says that absent a correction to the status quo, Los Angeles County LAFCO is considering removing itself from CALAFCO and considering the potential of a Southern California CALAFCO.

Commissioner McCallon states that SB375 has caused the same concerns with the League of California Cities. The League took a position of oppose unless amended and committed to work with the author to amend it. This was of concern as the opinion of many of the southern counties was that it was a bad bill.

Commissioner Mitzelfelt moves to participate and review ways to improve geographic participation to more accurately represent the State as a whole and the southern region in particular, and consider joining with Los Angeles County in forming a Southern California LAFCO, seconded by Commissioner McCallon. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Cox, McCallon, Mitzelfelt, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Nuaimi.

**COMMISSIONER COMMENTS**

Commissioner Cox commends staff for a tremendous job on the municipal service reviews which laid a great foundation for successive reviews. Commissioner McCallon echoes the same sentiment and asks for follow-up on the Barstow Cemetery District issue.

**COMMENTS FROM THE PUBLIC**

Chairman Colven calls for comments from the public. There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE  
HEARING IS ADJOURNED AT 4:27 P.M.**

**ATTEST:**

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**ANNA M. RAEF**  
Clerk to the Commission

**LOCAL AGENCY FORMATION COMMISSION**

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**ROBERT W. COLVEN, Chairman**